

110TH CONGRESS  
1ST SESSION

# H. R. 2455

To amend title II of the Social Security Act to prohibit the sale, purchase, and display to the general public of the Social Security account number.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2007

Mr. CARTER (for himself, Mr. THORNBERRY, Mr. NEUGEBAUER, and Ms. GRANGER) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend title II of the Social Security Act to prohibit the sale, purchase, and display to the general public of the Social Security account number.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Num-  
5 ber Non-Proliferation Act of 2007”.

1 **SEC. 2. PROHIBITION OF THE SALE, PURCHASE, AND DIS-**  
2 **PLAY TO THE GENERAL PUBLIC OF THE SO-**  
3 **CIAL SECURITY ACCOUNT NUMBER.**

4 (a) IN GENERAL.—Title II of the Social Security Act  
5 is amended by inserting after section 208 (42 U.S.C. 408)  
6 the following new section:

7 “PROHIBITION OF THE SALE, PURCHASE, AND DISPLAY  
8 TO THE GENERAL PUBLIC OF THE SOCIAL SECURITY  
9 ACCOUNT NUMBER

10 “SEC. 208A. (a) DEFINITIONS.—For purposes of this  
11 section:

12 “(1) PERSON.—

13 “(A) IN GENERAL.—Subject to subpara-  
14 graph (B), the term ‘person’ means any indi-  
15 vidual, partnership, corporation, trust, estate,  
16 cooperative, association, or any other entity.

17 “(B) GOVERNMENTAL ENTITIES.—Such  
18 term does not include a governmental entity.  
19 Nothing in this subparagraph shall be con-  
20 strued to authorize, in connection with a gov-  
21 ernmental entity, an act or practice otherwise  
22 prohibited under this section or section  
23 205(c)(2)(C).

24 “(2) SELLING AND PURCHASING.—

25 “(A) IN GENERAL.—Subject to subpara-  
26 graph (B)—

1           “(i) SELL.—The term ‘sell’ in connec-  
2           tion with a social security account number  
3           means to obtain, directly or indirectly, any-  
4           thing of value in exchange for such num-  
5           ber.

6           “(ii) PURCHASE.—The term ‘pur-  
7           chase’ in connection with a social security  
8           account number means to provide, directly  
9           or indirectly, anything of value in exchange  
10          for such number.

11          “(B) EXCEPTIONS.—The terms ‘sell’ and  
12          ‘purchase’ in connection with a social security  
13          account number do not include the submission  
14          of such number as part of—

15               “(i) the process for applying for any  
16               type of Government benefits or programs  
17               (such as grants or loans or welfare or  
18               other public assistance programs),

19               “(ii) the administration of, or provi-  
20               sion of benefits under, an employee benefit  
21               plan, or

22               “(iii) the sale, lease, merger, transfer,  
23               or exchange of a trade or business.

24          “(3) DISPLAY TO THE GENERAL PUBLIC.—

1           “(A) IN GENERAL.—The term ‘display to  
2           the general public’ means, in connection with a  
3           social security account number, to intentionally  
4           place such number in a viewable manner on an  
5           Internet site that is available to the general  
6           public or to make such number available in any  
7           other manner intended to provide access to such  
8           number by the general public.

9           “(B) INTERNET TRANSMISSIONS.—In any  
10          case in which a person requires, as a condition  
11          of doing business with such person, transmittal  
12          to such person of an individual’s social security  
13          account number by means of the Internet with-  
14          out reasonable provisions to ensure that such  
15          number is encrypted or otherwise secured from  
16          disclosure, any such transmittal of such number  
17          as so required shall be treated as a ‘display to  
18          the general public’ of such number by such per-  
19          son.

20          “(4) SOCIAL SECURITY ACCOUNT NUMBER.—  
21          The term ‘social security account number’ has the  
22          meaning given such term in section 208(c), except  
23          that such term includes any derivative of such num-  
24          ber. Notwithstanding the preceding sentence, any ex-  
25          pression, contained in or on any item sold or dis-

1       played to the general public, shall not be treated as  
2       a social security account number solely because such  
3       expression sets forth not more than the last 4 digits  
4       of such number, if the remainder of such number  
5       cannot be determined based solely on such expres-  
6       sion or any other matter presented in or on such  
7       item.

8       “(b) PROHIBITION OF SALE, PURCHASE, AND DIS-  
9       PLAY TO THE GENERAL PUBLIC.—(1) Except as provided  
10      in paragraph (2), it shall be unlawful for any person to—

11           “(A) sell or purchase a social security account  
12      number or display to the general public a social se-  
13      curity account number, or

14           “(B) obtain or use any individual’s social secu-  
15      rity account number for the purpose of locating or  
16      identifying such individual with the intent to phys-  
17      ically injure or harm such individual or using the  
18      identity of such individual for any illegal purpose.

19       “(2) Notwithstanding paragraph (1), and subject to  
20      paragraph (3), a social security account number may be  
21      sold or purchased by any person to the extent provided  
22      in this subsection (and for no other purpose) as follows:

23           “(A) to the extent necessary for law enforce-  
24      ment, including (but not limited to) the enforcement

1 of a child support obligation, as determined under  
2 regulations issued as provided in subsection (j);

3 “(B) to the extent necessary for national secu-  
4 rity purposes, as determined under regulations  
5 issued as provided in subsection (j);

6 “(C) to the extent necessary for public health  
7 purposes;

8 “(D) to the extent necessary in emergency situ-  
9 ations to protect the health or safety of 1 or more  
10 individuals;

11 “(E) to the extent that the sale or purchase is  
12 required to comply with a tax law of the United  
13 States or of any State (or political subdivision there-  
14 of);

15 “(F) to the extent that the sale or purchase is  
16 to or by a consumer reporting agency (as defined in  
17 section 603(f) of the Fair Credit Reporting Act (15  
18 U.S.C. 1681a(f))) for use or disclosure solely for  
19 permissible purposes described in section 604(a) of  
20 such Act (15 U.S.C. 1681b(a)); and

21 “(G) to the extent necessary for research (other  
22 than market research) conducted by an agency or in-  
23 strumentality of the United States or of a State or  
24 political subdivision thereof (or an agent of such an  
25 agency or instrumentality) for the purpose of ad-

1 vancing the public good, on the condition that the  
2 researcher provides adequate assurances that—

3 “(i) the social security account numbers  
4 will not be used to harass, target, or publicly  
5 reveal information concerning any identifiable  
6 individuals;

7 “(ii) information about identifiable individ-  
8 uals obtained from the research will not be used  
9 to make decisions that directly affect the rights,  
10 benefits, or privileges of specific individuals;  
11 and

12 “(iii) the researcher has in place appro-  
13 priate safeguards to protect the privacy and  
14 confidentiality of any information about identi-  
15 fiable individuals, including procedures to en-  
16 sure that the social security account numbers  
17 will be encrypted or otherwise appropriately se-  
18 cured from unauthorized disclosure.

19 “(3) Notwithstanding paragraph (1), a social security  
20 account number assigned to an individual may be sold,  
21 purchased, or displayed to the general public by any per-  
22 son—

23 “(A) to the extent consistent with such individ-  
24 ual’s voluntary and affirmative written consent to

1 the sale, purchase, or display of the social security  
2 account number, but only if—

3 “(i) the terms of the consent and the right  
4 to refuse consent are presented to the individual  
5 in a clear, conspicuous, and understandable  
6 manner,

7 “(ii) the individual is placed under no obli-  
8 gation to provide consent to any such sale, pur-  
9 chase, or display, and

10 “(iii) the terms of the consent authorize  
11 the individual to limit the sale, purchase, or dis-  
12 play to purposes directly associated with the  
13 transaction with respect to which the consent is  
14 sought, and

15 “(B) under such circumstances as may be  
16 deemed appropriate in regulations issued as provided  
17 under subsection (j).

18 “(4) In the case of social security account numbers  
19 which constitute personally identifiable medical informa-  
20 tion, the Commissioner of Social Security, with respect to  
21 medical research which is referred to in paragraph (3)(A)  
22 or which is treated in regulations of the Commissioner  
23 issued pursuant to paragraph (3)(B), shall maintain ongo-  
24 ing consultation with the Office for Civil Rights of the De-  
25 partment of Health and Human Services to ensure that

1 the sale or purchase of such social security account num-  
2 bers is permitted only in compliance with existing Federal  
3 rules and regulations prescribed by the Secretary of  
4 Health and Human Services pursuant to section 264(c)  
5 of the Health Insurance Portability and Accountability  
6 Act of 1996 (110 Stat. 2033).

7 “(c) PROHIBITION OF UNAUTHORIZED DISCLOSURE  
8 TO GOVERNMENT AGENCIES OR INSTRUMENTALITIES.—

9 (1) It shall be unlawful for any person to communicate  
10 by any means to any agency or instrumentality of the  
11 United States or of any State or political subdivision  
12 thereof the social security account number of any indi-  
13 vidual other than such person without the written permis-  
14 sion of such individual, unless the number was requested  
15 by the agency or instrumentality. In the case of an indi-  
16 vidual who is legally incompetent, permission provided by  
17 the individual’s legal representatives shall be deemed to  
18 be permission provided by such individual.

19 “(2) Paragraph (1) shall not apply to the extent nec-  
20 essary—

21 “(A) for law enforcement, including (but not  
22 limited to) the enforcement of a child support obliga-  
23 tion, or

24 “(B) for national security purposes,

1 as determined under regulations issued as provided under  
2 subsection (j).

3 “(d) PROHIBITION OF THE DISPLAYS ON CARDS OR  
4 TAGS REQUIRED FOR ACCESS TO GOODS, SERVICES, OR  
5 BENEFITS.—No person may display a social security ac-  
6 count number on any card or tag issued to any other per-  
7 son for the purpose of providing such other person access  
8 to any goods, services, or benefits or include on such card  
9 or tag a magnetic strip, bar code, or other means of com-  
10 munication which conveys such number.

11 “(e) PROHIBITION OF THE DISPLAYS ON EMPLOYEE  
12 IDENTIFICATION CARDS OR TAGS.—No person that is an  
13 employer, and no other person offering benefits in connec-  
14 tion with an employee benefit plan maintained by such em-  
15 ployer or acting as an agent of such employer, may display  
16 a social security account number on any card or tag that  
17 is commonly provided to employees of such employer (or  
18 to their family members) for purposes of identification or  
19 include on such card or tag a magnetic strip, bar code,  
20 or other means of communication which conveys such  
21 number.

22 “(f) MEASURES TO PRECLUDE UNAUTHORIZED DIS-  
23 CLOSURE OF SOCIAL SECURITY ACCOUNT NUMBERS AND  
24 PROTECT THE CONFIDENTIALITY OF SUCH NUMBERS.—  
25 Subject to the preceding provisions of this section, any

1 person having in such person's records the social security  
2 account number of any individual other than such person  
3 shall, to the extent that such records are maintained for  
4 the conduct of such person's trade or business—

5           “(1) ensure that no officer or employee thereof  
6 has access to such number for any purpose other  
7 than as necessary for the conduct of such person's  
8 trade or business,

9           “(2) restrict, in accordance with regulations of  
10 the Commissioner, access to social security account  
11 numbers obtained thereby to officers and employees  
12 thereof whose duties or responsibilities require ac-  
13 cess for the conduct of such person's trade or busi-  
14 ness, and

15           “(3) provide such safeguards as may be speci-  
16 fied, in regulations of the Commissioner, to be nec-  
17 essary or appropriate to preclude unauthorized ac-  
18 cess to the social security account number and to  
19 otherwise protect the confidentiality of such number.

20           “(g) DECEASED INDIVIDUALS.—This section does  
21 not apply with respect to the social security account num-  
22 ber of a deceased individual.

23           “(h) CRIMINAL PENALTY.—Any person who violates  
24 this section shall be guilty of a felony and upon conviction

1 thereof shall be fined under title 18, United States Code,  
2 or imprisoned for not more than 5 years, or both.

3 “(i) APPLICABILITY OF OTHER PROTECTIONS.—

4 Nothing in this section shall be construed to supersede,  
5 alter, or affect any restriction or limitation on the sale,  
6 purchase, display to the general public, or other disclosure  
7 of social security account numbers, provided in any Fed-  
8 eral statute, regulation, order, or interpretation, if the re-  
9 striction or limitation is greater than that provided under  
10 this section, as determined under applicable regulations  
11 issued by the Commissioner of Social Security or by an-  
12 other agency or instrumentality of the United States as  
13 provided in subsection (j).

14 “(j) REGULATIONS.—(1) In issuing regulations to  
15 carry out the provisions of subparagraphs (A) and (B) of  
16 subsection (b)(2), subsection (b)(3)(B), and subsection  
17 (c)(2), the Commissioner of Social Security shall consult  
18 with the Attorney General of the United States, the Sec-  
19 retary of Health and Human Services, the Secretary of  
20 Homeland Security, the Secretary of the Treasury, the  
21 Federal Trade Commission, the Federal banking agencies  
22 (as defined in section 3 of the Federal Deposit Insurance  
23 Act), the National Credit Union Administration, the Secu-  
24 rities and Exchange Commission, State attorneys general,  
25 and such representatives of the State insurance commis-

1 sioners as may be designated by the National Association  
2 of Insurance Commissioners. Any agency or instrumen-  
3 tality of the United States may exercise the authority of  
4 the Commissioner to issue such regulations, with respect  
5 to matters otherwise subject to regulation by such agency  
6 or instrumentality, to the extent determined appropriate  
7 in regulations of the Commissioner.

8 “(2) In issuing the regulations described in para-  
9 graph (1) pursuant to the provisions of subparagraph (A)  
10 or (B) of (b)(2) or subsection (c)(2) (relating to law en-  
11 forcement and national security), the Commissioner may  
12 authorize the sale or purchase of social security account  
13 numbers only if the Commissioner determines that—

14 “(A) such sale or purchase would serve a com-  
15 pelling public interest that cannot reasonably be  
16 served through alternative measures, and

17 “(B) such sale or purchase will not pose an un-  
18 reasonable risk of identity theft, or bodily, emo-  
19 tional, or financial harm to an individual (taking  
20 into account any restrictions and conditions that the  
21 Commissioner imposes on the sale, purchase, or dis-  
22 closure).

23 “(3) In issuing the regulations described in para-  
24 graph (1) pursuant to the provisions of subsection  
25 (b)(3)(B), the Commissioner may authorize the sale, pur-

1 chase, or display to the general public of social security  
2 account numbers only after considering, among other rel-  
3 evant factors—

4 “(A) the associated cost or burden to the gen-  
5 eral public, businesses, commercial enterprises, non-  
6 profit organizations, and Federal, State, and local  
7 governments; and

8 “(B) the associated benefit to the general pub-  
9 lic, businesses, commercial enterprises, non-profit as-  
10 sociations, and Federal, State, and local govern-  
11 ments.

12 “(4) If, after considering the factors in paragraph  
13 (3), the Commissioner authorizes, in regulations referred  
14 to in paragraph (3), the sale, purchase, or display to the  
15 general public of social security account numbers, the  
16 Commissioner shall impose restrictions and conditions on  
17 the sale, purchase, or display to the general public to the  
18 extent necessary—

19 “(A) to provide reasonable assurances that so-  
20 cial security account numbers will not be used to  
21 commit or facilitate fraud, deceptions, or crime, and

22 “(B) to prevent an unreasonable risk of identity  
23 theft or bodily, emotional, or financial harm to any  
24 individual, considering the nature, likelihood, and se-  
25 verity of the anticipated harm that could result from

1 the sale, purchase, or display to the general public  
2 of social security account numbers, together with the  
3 nature, likelihood, and extent of any benefits that  
4 could be realized.

5 “(5) In the issuance of regulations described in para-  
6 graph (1), notice shall be provided as described in para-  
7 graphs (1), (2), and (3) of section 553(b) of title 5, United  
8 States Code, and opportunity to participate in the rule  
9 making shall be provided in accordance with section  
10 553(c) of such title.

11 “(6) Each agency and instrumentality exercising au-  
12 thority to issue regulations under this subsection shall  
13 consult and coordinate with the other such agencies and  
14 instrumentalities for the purposes of assuring, to the ex-  
15 tent possible, that the regulations prescribed by each such  
16 agency or instrumentality are consistent and comparable,  
17 as appropriate, with the regulations prescribed by the  
18 other such agencies and instrumentalities. The Commis-  
19 sioner shall undertake to facilitate such consultation and  
20 coordination.”.

21 (b) EFFECTIVE DATE.—Initial final regulations pre-  
22 scribed to carry out the provisions of section 208A of the  
23 Social Security Act (added by this section) shall be issued  
24 not later than the last date of the 18th calendar month  
25 following the date of the enactment of this Act. Such pro-

1 visions shall take effect 1 year after the date of the  
2 issuance of such regulations. Section 208A(b) of such Act  
3 shall apply in the case of displays to the general public  
4 (as defined in section 208A(a)(3) of such Act) to such dis-  
5 plays to the general public originally occurring after such  
6 1-year period. Such provisions shall not apply with respect  
7 to any such display to the general public of a record (con-  
8 taining a social security account number (or any derivative  
9 thereof)) generated prior to the close of such 1-year pe-  
10 riod.

○